



RATIFYING THE CZECH MEMBERSHIP IN THE EU

POLICY PAPER – EUROPEAN POLICY FORUM – EUROPEUM

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1. Referendum – characteristics

1.1. **A referendum on the Czech accession to the European Union will be the first popular voting on a „grand“ issue since the fall of Communism** and, *de facto*, the first „grand“ referendum in Czech and Czechoslovak history ever. The issues of the direction of the economic reform, division of Czechoslovakia, Czech accession to NATO or the role of nuclear energy were not referred to the Czech people in a referendum.

1.2. The decision on the referendum on the Czech accession to the European Union is a **political decision (political option)** since there is no constitutional requirement of such a referendum in the Czech legal system. The same applies to the *acquis communautaire*. The unconditional requirement of a referendum is not contained even in the „European“ constitutional amendment in the Czech Constitution from December 2001, which is aimed at ensuring the compatibility of the Czech Constitution with European law. However, the referendums were held in every accession country during the last wave of enlargement of the EU (1994: affirmative in Austria, Finland [+separate referendum in Åland Islands] and Sweden, negative in Norway). The referendums are intended to be held in a vast majority of contemporary applicant countries.

1.3. Referendum on Czech accession to the EU will also contain a **symbolic meaning**. The affirmative referendum can be interpreted as the final step of the democratic transformation and as the confirmation of the orientation of the Czech Republic towards Western Europe. In contrast, a negative result of the referendum might be interpreted as a symbol of inclusiveness of Czech society and/or as an expression of its xenophobia – which will not automatically correspond to the real outcomes of the referendum.

1.4. Referendum on the Czech accession to the EU will definitely be an important historical event in the development of Czech society. However, it will not be the only one. Therefore, the referendum **should not be demonised** in a sense that it will be the major „yes“ or „no“ decision of our lives. The fact that the accession of the Czech Republic to the EU is **only the first step in a long-term process**, should be underlined. The fact that Czech accession to the EU will not solve immediately all the problems of Czech society and the Czech state should be emphasised, too. At the same time, alternative scenarios in case of negative voting (against the Czech membership in the EU), should be prepared.

2. Form of referendum

2.1. At current state of game, the framework for the Czech referendum is relatively narrowly set by the two proposals of Constitutional Act on referendum (submitted by the government and Senate). The governmental proposal regulates a referendum in a general manner, while the Senate's proposal deals specifically with a referendum on the European Union. However, even the governmental proposal contains a specific section regulating the referendum on the Czech accession to the EU. Both proposals contain same clauses on the character of the referendum (the **referendum is binding and substitutes the ratification of the Accession Treaty** by the Parliament), its timing (a **period between the signature of the Accession Treaty and the date of the accession**) and on the initiator of the referendum (**the referendum is called automatically**). At present, a debate on the suitability of the aforementioned provisions seems to be purely academic, since the Parliament will probably adopt one of the two mentioned proposals. A more fundamental debate can be focused on two points where the proposals differentiate – the formulation of a question for the referendum and the requirement of quorum for a validity of the referendum.

2.2. Both proposals operate with a **question** of a rather neutral character: **Do you agree that the Czech Republic becomes member (member state) of the European Union under conditions of the Accession Treaty?**“ A reference to the Accession Treaty leaves some doubts. It complicates the question. On the other hand, the reference to the Accession Treaty provides the voters with a clear signal/message that EU membership is a complex affair with clearly established rights and duties. The reference to the Accession Treaty can motivate the voters (if they are aware of the question in advance) towards deeper interest in the impact of the enlargement on the Czech Republic, towards more responsible voting and, finally, towards higher legitimacy of the referendum.

2.3. The Senate proposal contains a requirement of a **quorum**, i.e. a minimum number of voters required for a validity of the referendum. According to the Senate's recommendation, the quorum shall be 50 per cent of the total number of all citizens eligible to vote. Minimal quorum increases the legitimacy of the referendum. However, the combination of a mandatory referendum and relatively high quorum can result in the fact that the decisive factor will be the attitude of the passive and/or undecided segment of the Czech population. Activities connected with the referendum can easily turn into a „vote, no matter how“ type of campaign.

3. Campaign

3.1. The referendum is inherently inter-connected with a campaign intended to influence the outcome of referendum. The referendum campaign in the Czech Republic will be a **complex of campaigns of different authors directed towards different target groups with different objectives/preferences**. Therefore, the campaign should not be analysed as one homogeneous issue, but in a structured way. **The campaign will be of a persuasive character**, with a clear objective of „yes“ or „no“ result in voting. **Simple provision of the „objective“ information and facts on the European integration (so called „objective information campaign“) is not sufficient** due to the complexity of a problem at stake. The insufficiency of purely objective informative campaign has been underlined by recent Irish experience with referendum on the Treaty of Nice, where an objective information campaign, organised by Irish government, was confronted with the persuasive campaigns of the opponents of the Treaty ratification. In the framework of this persuasive campaign, a platform for a „negative campaign“ (i.e. the campaign which emphasises the negative aspects of enlargement and/or refusal of the Czech accession) should not be *a priori* refused.

3.2. The presence of „negative“ campaigns is not only necessary (due to the decentralised character of the campaign) but even desirable – legitimacy of the referendum is increased and shocks of the accession are mitigated. The experience from the last wave of enlargement (Sweden, Finland) suggests a possibility of allocating the state funding to both the supporters and the opponents of the accession.

3.3. **The campaign will be decentralised**. Among the initiators of individual campaigns, the Czech government, institutions of the European Union, Czech political parties, lobbies, interest groups and regional authorities will have the most prominent position. The distinction between the governmental campaign and the campaign (or individual campaigns) of the

political parties forming the government, can create certain problems. A specific, hardly predictable, will be the campaign ran by and in Czech media – both public and private ones.

3.4. **Campaign will be targeted at the whole population of the Czech Republic**, at least at those citizens eligible to vote in referendum. Significant (if not dominating) addition to the general campaign will be the campaigns targeting the groups with specific attitudes to the referendum and the European Union, such as elites, handicapped groups and undecided citizens.

3.5. The importance of referendum **campaign targeted at handicapped groups (social groups with low income and education, rural population, unemployed, house-working)** is highlighted by a low level of support of the EU membership in those groups, combined with low level of knowledge of the topic. Arguments against such campaign include an excessive quantity of work and resources required (demand for low-profile information, passive approach of the target group) and its questionable efficiency (mistrust to information distributed from the centre, instability of opinion, which tends to be changed by spectacular but marginal information on the European integration).

3.6. **The referendum campaign targeted at elites** will differ significantly from general campaign. High level of participation of the target group, high-profile questions and openness to alternative sources of information (and their consequent competition) will be the main characteristics of the elites-oriented campaign. **A sub-group, which seems to be rather ignored today, is the so called „middle level elite“ (in particular regional authorities and representatives of business)**, who requires information on practical impacts of the Czech accession to the EU. Another important feature of the campaign targeted at „middle level elite“ is its **multiplication effect**: the approach to the referendum of members of the elite tends to influence other voters (typically employees of a small business). The undecided voters will logically become the main target group of the campaign, if the minimum quorum requirement is included in the Referendum Act and the public opinion polls indicate a risk of participation below the 50 per cent limit.

3.7. **Referendum campaign will be multi-topical**. It shall evaluate different aspects of changes of life in the Czech Republic in case of approval or refusal of the EU membership. Concentration on a single topics/issue, such as Czech sovereignty, brings a risk that the problem selected will not correspond to those issues being decisive for the majority decision in the referendum.

3. 8. **Topics of the referendum campaign belong to one of the three categories: macro, medium and micro issues**. Macro-issues cover problems of the „grand“ politics, such as

sovereignty of the Czech Republic, legitimacy deficit in the EU and/or differentiation within the European Union. In contrast, micro-issues cover impacts of the accession on everyday lives of ordinary people, such as price and income levels after accession, migration issues, transfers from structural funds and/or possibility to work in other states of the European Union.. Medium-issues combine problems of everyday life with symbolic elements. A lower level of funding of Czech farmers combined with an image of the second-rank membership of the Czech Republic and/or some absurdities of European legal regulation combined with an image of uncontrolled Brussels bureaucracy are examples of these medium-issues. So called „Euro-myths“ may become the medium-issues for Czech population. Medium-issues tend to be irrational (what does „second rank membership“ mean?) and, therefore, as such they easily become a subject of media coverage. Therefore, **medium-issues tend to be the key questions** in Czech referendum.

3.9. The intensity of the campaign will increase as the date of referendum approaches and will culminate after the signature of the Accession Treaty. However, the intensive campaign could be contra-productive. „Being tired of the Union“ phenomenon could end in the decision not to participate in the referendum or to vote against the accession. Unusual method of the involvement of the public into the campaign is a **„deliberative poll“**. Deliberative poll is **one- or two- days conference of a representative sample/group of the Czech population, where key issues influencing the decision in the referendum are formulated**. The outcome of the conference should be popularised by media and confronted with the Czech Parliament. Deliberative poll belongs to the most effective methods of public involvement into debates on fundamental trends in the society.

4. Process and results of referendum

4.1. The period between signature of the Accession Treaty and the date of referendum (before the accession takes place) will constitute the most critical period of the whole process. The period concerned will be relatively short. during Different interpretations of the conditions of the Czech membership will be offered to the Czech public during this period. The complex character of the Accession Treaty and its technicality might mean that for the evaluation of the Treaty its rough interpretation and not a subtle content analysis will become the crucial factor for taking the respective decision. A „competition“ on interpretations of the Treaty can be expected among groups organising the referendum campaign. Another complication is to be caused by the shortness of the period disposable for the „popularisation“ of the Treaty – time pressure will influence its translation, summary and distribution to the

voters. In particular, the existence of a **brief summary** is crucial, as the size of protocols to the Treaty will exceed several thousand pages.

4.2. Details of the referendum procedure will be governed by a special act of parliament. **Mechanism, which limits the campaign and publication of opinion polls in a short period prior to the voting, is worth consideration.** Similar ban already applies to parliamentary elections.

4.3. After affirmative outcome of the referendum, a *concours (competition)* for the authorship of the success can be expected. The referendum is not, however, the ultimate point of the Czech participation in the European Union. **The campaign shall continue with the aim, *inter alia*, to prevent the frustration from unrealistic expectations of EU membership by the Czech population.** Further, an ongoing campaign **will ensure an effective Czech participation in the EU activities** (e.g. in the form of sufficient number of quality projects for structural funds).

4.4. In case of **refusal of membership in the referendum, three variants of further development exist.** First, the Czech participation in the European Union is a dead project, either definitely or until the next wave of enlargement. Then, the Czech Republic must find **new *modus vivendi* with the European Union**, e.g. in the form of special privileged association (example: Norway). The second option is a **new referendum after re-negotiation of the Accession Treaty.** This case is highly unlikely due to the lack of interest on the EU part. The only analogous situation occurred in 1993 in case of the second Danish referendum on the Maastricht Treaty – and even then it was a referendum on the amendment of European founding treaties and not a treaty on enlargement. The third variant is a **repetition of the referendum with the same terms of the original Treaty.** This „second attempt“ referendum faces a problem of legitimacy combined with barriers set by the legislators themselves, e.g. in several year long „chilling period“, when a referendum on the same question cannot be repeated (example: Irish referendum on Treaty of Nice).

5. Based on the analysis described, the European Policy Forum proposes the following conclusions and recommendations:

5.1. Referendum campaign on the accession of the Czech Republic to the European Union should be of a persuasive character more than that of simply informative one. Both arguments supporting and opposing the membership constitute a legitimate part of the campaign, including a campaign focused on the negative aspects of accession.

5.2. The campaign should be focused on the „middle level elite“ of the Czech society (regional authorities and representatives of corporations).

5.3. The period between the signature of the Accession Treaty and the date of referendum (before accession takes place) will constitute the most critical period of the whole process due to its shortness, vulnerability towards the „Euro-myths“ and misinformation on the conditions of the Czech membership.

5.4. The intensity of the campaign will increase as the date of referendum approaches and will culminate after the signature of the Accession Treaty. However, the campaign organisers should be aware of the risk of „over-intensification“ of the campaign resulting into the decrease of public interest in the referendum.

5.5. Questions combining practical impacts of the accession with symbolic issues (so called medium-level questions of the Czech accession) will constitute the key element in the debate on the referendum and will determine its result.

5.6. Referendum on the accession of the Czech Republic to the European Union will constitute an important event in the development of the Czech society. However, it should not be interpreted as a fatal or ultimate turning point. Campaign on the Czech membership in the European Union should continue even after referendum has taken place. Similarly, alternative solutions for the case of a negative outcome of referendum should be prepared.

5.7. Brief (max. 5 pages) summary of the Accession Treaty (*including* its easy-to-understand interpretation) distributed to every citizen would significantly contribute to the transparency and legitimacy of the referendum.